

**Michigan IV-D Child Support Manual**  
**Michigan Department of Health and Human Services**

<b>Publication/ Revision Date:</b> June 28, 2016	<b>Chapter Number:</b> 2.0	<b>Chapter Title:</b> Case Management
	<b>Section Number:</b> 2.10	<b>Section Title:</b> Assisted Reproduction

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## 1. Introduction

Increasingly, couples and individuals are using assisted reproductive technology (ART)<sup>1</sup> to become parents. In 2009, over 60,000 children were born through in vitro fertilization<sup>2</sup> in the United States.<sup>3</sup> Additionally, prospective parents may use intrauterine insemination or other technologies under medical supervision, or may attempt to do so without medical involvement.

If parents or caretakers of the resulting children receive public assistance<sup>4</sup> on behalf of those children, Michigan's assistance program will refer them for IV-D services. In addition, a custodial party (CP), spouse, or donor not receiving public assistance may submit an application for IV-D services.

The procedures in this manual section apply only to CPs who have an obligation to cooperate with the IV-D program due to their receipt of public assistance and who assert that their inability to cooperate is due to the use of ART in the conception of the child.

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<sup>1</sup> Assisted reproductive technology (ART) is a general term referring to methods used to achieve pregnancy by artificial or partially artificial means. It is reproductive technology used primarily in infertility treatments.

<sup>2</sup> In vitro fertilization is fertilization by mixing sperm with eggs surgically removed from an ovary, followed by uterine implantation of one or more of the resulting fertilized eggs.

<sup>3</sup> Ref: [Center for Disease Control \(CDC\) Assisted Reproductive Technology page.](#)

<sup>4</sup> "Public assistance" refers to the Family Independence Program (FIP), medical assistance, Child Development and Care (CDC), or Food Assistance Program (FAP) as described in [Section 2.05, "Referrals and Applications," of the Michigan IV-D Child Support Manual.](#)

## 1.1 Michigan Law and the Use of Assisted Reproductive Technology (ART)

Michigan law does not specifically speak to the use of ART in the context of paternity or child support establishment and enforcement.

Because Michigan law is largely silent on the topic of ART, this manual section relies on definitions from the model Uniform Parentage Act (UPA).<sup>5</sup>

## 1.2 The Model Uniform Parentage Act (UPA)

The National Conference of Commissioners on Uniform State Laws approved the most recent model UPA after commentary from the American Bar Association in 2002. The UPA (2002) recommends that states define ART as:

- (a) intrauterine insemination;
- (b) donation of eggs;
- (c) donation of embryos;
- (d) in vitro fertilization and transfer of embryos; and
- (e) intracytoplasmic<sup>6</sup> sperm injection.

ART may be performed either by a licensed physician or at home with or without the advice of a licensed physician.

## 2. Private Agreements for ART and Public Assistance

A CP may assert that the use of ART in the conception of a child, or an arrangement, agreement, or contract related to the conception of a child removes that CP from the need to establish paternity or a child support order for that child.

[Section 2.15, "Cooperation/Noncooperation/Good Cause," of the \*Michigan IV-D Child Support Manual\*](#) defines the responsibility of CPs who receive assistance benefits on behalf of children to cooperate in establishing paternity and in establishing, enforcing, and modifying a child support order(s).

Such CPs must provide all known, possessed, or reasonably obtainable information that relates to establishing paternity and/or securing support as a condition of receiving public assistance. These requirements are not waived by any private arrangement, agreement, or contract between the CP and non-custodial parent, or between the two parents if the CP is a third party.

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<sup>5</sup> The UPA is not Michigan law or federal law. It is draft legislation that states can use to enact their own state law.

<sup>6</sup> Intracytoplasmic sperm injection is an in vitro fertilization procedure in which a single sperm is injected directly into an egg.

CPs who believe that arrangements, agreements, or contracts related to the conception of the child have legal merit may enter those documents into the court record as part of a hearing to establish a child support order.

### 3. Support Specialist (SS) Responsibilities

Michigan law declares that a child born out of wedlock is a “child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.”<sup>7</sup>

#### 3.1 Parents Married During Conception or at Birth

Regardless of the method of conception, SSs will treat a child born to parents who were married at any time between the date of conception and the date of birth as a child of those parents, unless a court has determined otherwise.<sup>8</sup>

#### 3.2 Parents Unmarried Between Conception and Birth

If the mother of the child engaged in sexual intercourse at any time near the approximate conception date of the child, the SS will consider the sexual partner(s) as the most likely putative father(s) before applying the policies in this manual section. The SS will follow the provisions of Subsection 2.4.4, “Generating CARs in Some Unique Situations” of [Section 2.20, “Court Action Referrals \(CARs\)” of the Michigan IV-D Child Support Manual](#).

##### 3.2.1 *Statement of Assisted Reproduction and Lack of Information*

The *Statement of Assisted Reproduction and Lack of Information* form (DHS-998) requires the CP to attest to the use of ART resulting in the conception of a child and that she has no information regarding the natural father. The DHS-998 has space for the CP to provide evidence supporting the method(s) of ART used to conceive the child.

SSs will use the DHS-998 in all cases where the CP claims that the father’s name and location are unknown, the child is the product of ART, there is no private agreement identifying the father, and the parents are not married.

SSs will require that the CP return a completed DHS-998 form within 21 days of claiming that a child(ren) on the IV-D case was conceived as the result of ART. DHS-998 forms must be sent to:

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<sup>7</sup> Michigan Compiled Law (MCL) 722.711

<sup>8</sup> MCL 552.29

Michigan Department of Health and Human Services  
Office of Child Support  
P.O. Box 30478  
Lansing, MI 48909

A Central Operations worker will scan the DHS-998 and enter it into a database for retention, then return the DHS-998 to the SS for processing.

### 3.2.2 Conception by Medically Performed ART

SSs will consider an ART procedure as medically performed if:

- A. The method of ART is one listed in Subsection 1.2 above;
- B. The father provided the semen, or the mother provided the egg, to a licensed physician; and
- C. A licensed physician performed the procedure.<sup>9</sup>

SSs interviewing CPs will request that the CP provide evidence along with a completed and signed DHS-998 form indicating that ART was used to conceive a child.

The SS will not compel a CP to divulge information about a donor father after verifying that ART and physician involvement resulted in the conception of the child.

After obtaining documentation of ART and physician involvement, and paternity is not otherwise established, the SS will close the IV-D case with a closure code of “WQ” (Non-TANF Applicant Requests Closure). The “WQ” code will be used to distinguish these case closures from duplicate or erroneous cases closed using the “MZ” reason code.

The SS will document the receipt of a properly signed DHS-998 form, the CP’s information regarding the ART used, and the physician involvement in the Michigan Child Support Enforcement System (MiCSES) by entering a case note in the *Notes Processor* (NOTE) screen.

### 3.2.3 Conception by Non-Physician ART

When the CP asserts that ART resulted in the conception of the child, but cannot provide evidence that the procedure was performed with

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<sup>9</sup> The CP cannot be reasonably expected to know whether a licensed physician followed the steps required by Michigan law (MCL 333.16273; MCL 333.20179), including storage and quarantine of genetic material for no less than six months, and testing for HIV or antibodies for HIV at the time of the donation and prior to the use of the genetic material for ART.

physician involvement, the SS will require the CP to provide evidence of the method used with the DHS-998 form.

The SS will require the CP to provide detailed receipts of materials purchased.

The SS will not pursue paternity if the DHS-998 form is received and properly signed, and the documentation submitted by the CP clearly indicates:

- A. The materials are likely to have been used to conceive the child; and
- B. The receipt of genetic material (sperm).

If these conditions are met, the SS will close the IV-D case with a closure code of "WQ." If these conditions are not met, refer to Subsection 3.2.4 below.

The SS will document the receipt of a completed and properly signed DHS-998 form, the CP's information regarding the ART used, and the lack of physician involvement in MiCSES by entering a case note on the NOTE screen.

**Example:**

Marie is the mother and CP of Jane, and receives cash assistance (FIP) with Jane. She is referred for IV-D services as a result of Jane's FIP, and MiCSES sends Marie the *1st Client Contact Letter and Pamphlet* (OCS0015).

When Marie contacts her SS, she explains that Jane was conceived when Marie underwent fertility treatments using a mail-order intrauterine insemination kit.

The SS requires that Marie provide evidence that Jane was conceived as the result of ART and complete the DHS-998. Marie returns a completed and signed DHS-998 form explaining the procedure and attaches the receipt from the provider.

The receipt details that the purchase included frozen sperm and materials for intrauterine insemination. The SS determines that Jane was the product of anonymously provided ART.

The SS enters this information as a IV-D case note in MiCSES and closes the IV-D case with a closure code of "WQ."

### 3.2.4 Conception Without Verified ART

When a CP asserts that the child was conceived by ART, but any of the following are true, the SS will process the case as (s)he would any other IV-D case:

- A. The mother of the child engaged in sexual intercourse during a period of time likely to result in the conception of the child;
- B. The CP cannot provide evidence via the DHS-998 form that a method of ART resulted in the conception of the child; or
- C. The CP fails to return a completed and signed DHS-998 form within 21 days.

The SS will require the CP to cooperate in providing any information necessary to establish paternity and to establish a child support order as described in Section 2.15 of the *Michigan IV-D Child Support Manual*.

**Example:**

Marie is the mother and CP of Jane, and receives Medicaid on behalf of Jane. She is referred for IV-D services as a result of Jane's Medicaid, and MiCSES sends Marie the *1st Client Contact Letter and Pamphlet* (OCS0015).

When Marie contacts her SS, she explains that Jane was conceived after Marie ordered an artificial insemination kit by mail and used it.

The SS requires that Marie provide evidence that Jane was conceived as the result of ART and complete the DHS-998. Marie returns a completed and signed DHS-998 form explaining that a mail-order kit was used, and attaches a copy of a receipt as evidence. The receipt contains only a generic description of the kit and does not specify the inclusion of genetic material.

Because the receipt does not specify the inclusion of sperm, the SS cannot determine that Jane was the product of anonymously provided ART.

The SS informs Marie that without more substantive evidence that her pregnancy was the result of ART, she will be required to cooperate in identifying Jane's father and in establishing paternity and a child support order.

### 3.3 Donor Rights

No Michigan law denies either male or female donors their rights to establish paternity and obtain a child support order.

A decision by the SS not to require the CP's cooperation in establishing paternity when ART resulted in the conception of a child does not preclude a donor from applying for and receiving IV-D services.

Refer to Section 2.05 of the *Michigan IV-D Child Support Manual* for procedures used when putative fathers or non-custodial parents apply for IV-D services.

#### **SUPPORTING REFERENCES:**

Federal  
UPA (2002)

State  
MCL 333.16273  
MCL 333.20179  
MCL 552.29  
MCL 722.711-730  
MCL 722.851-863

#### **REVISION HISTORY:**

[IV-D Memorandum 2016-021](#)  
IV-D Memorandum 2012-008